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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,584	04/11/2006	Udo Van Stevendaal	DE 030352	9566
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EXAMINER CORBETT, JOHN M				
ART UNIT 2882		PAPER NUMBER		
MAIL DATE 03/13/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,584

Applicant(s)

VAN STEVENDAAL ET AL.

Examiner

John M. Corbett

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 and 12-15 is/are rejected.
7) ☒ Claim(s) 7-11 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 11 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 11 April 2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to because it refers to claims 1-15 on pages 3-5, which may create discrepancies and new matter issues if future claim amendments were to be made.

Therefore, the examiner suggests removing all references to the claims that are in the specification.

Appropriate correction is required.

2. The incorporation of essential material in the specification by publications, Katsevich "Analysis of an exact inversion algorithm for spiral cone-beam CT", Phys. Med. Biol., vol. 47, p 2583-2597, (2002) and M. Defrise, F. Noo, H. Kudo, "Improved 2D rebinning of helical cone-beam CT data using John's equation", Proc. 2002 IEEE Nuclear Science and Medical Imaging Symposium, Norfolk (Va.), Paper M10-74, is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f). Additionally, it is noted by the examiner that the above referenced foreign application and publication have not been submitted in accordance with 37 CFR 1.97 and 1.98 and therefore have not been considered.

3. The specification is objected to because of the following informalities, which appear to be minor draft errors including grammatical and/or lack of antecedent basis problems.

In the following format (location of objection; suggestion for correction), the following correction(s) may obviate the objection(s):

(Page 14, line 17, “source of radiation 9” was claimed, perhaps “source of radiation 49” was meant).

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In figure 9, items 51-55. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 1-15 are objected to because of the following informalities, which appear to be minor draft errors including grammatical and/or lack of antecedent basis problems.

In the following format (location of objection; suggestion for correction), the following correction(s) may obviate the objection(s):

(Claim 1, lines 1-2, “computed tomography” was claimed, perhaps “computed tomography (CT)” was meant).

(Claim 7, line 1, “computed tomography” was claimed, perhaps “computed tomography (CT)” was meant).

(Claim 12, line 1, “computed tomography” was claimed, perhaps “computed tomography (CT)” was meant).

(Claim 15, line 2, “computed tomography” was claimed, perhaps “computed tomography (CT)” was meant).

Claims 2-6, 8-11 and 13-14 are objected to by virtue of their dependency.

Note: The first instance of an abbreviation used in a claim should explicitly state the term or phrase which is being abbreviated.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-6 and 12-15 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

With regards to claims 1-6 and 12-15, the claims are directed to a judicial exception; as such, pursuant to the Interim Guidelines on the Patent Eligible Subject Matter (MPEP 2106), the claims must have either physical transformation and/or a useful, concrete and tangible result. The claims fail to include transformation from one physical state to another. Although, the claims appear useful and concrete, there does not appear to be a tangible result claimed. The step of merely rearranging data is not sufficient to constitute a tangible result, since the outcome of the subjecting step has not been used in a disclosed practical application nor made available in such a manner that its usefulness in a disclosed practical application can be realized. As such, the subject matter of the claims is not patent eligible.

An example, which would make the subject matter of the instant claims 1-6 and 12-15 statutory, would be to include a step of displaying a reconstructed image or outputting a material discrimination.

With regards to claim 15, the claim is drawn to a computer program per se. A computer program per se is a set of abstract instructions. Therefore, a computer program is not a physical

thing (product) nor a process as they are not “acts” being performed. As such, these claims are not directed to one of the statutory categories of the invention (See MPEP 2106.01), but directed to nonstatutory functional descriptive material.

It is noted that computer programs embodied on a computer readable medium or other structure, which would permit the functionality of the program to be realized, would be directed to a product and be within a statutory category of invention, so long as the computer readable medium is not disclosed as non-statutory matter per se (signals or carrier waves or presented over a network such as the Worldwide Web).

An example that would make the instant claims statutory would be to claim a computer readable medium encoded with a computer program which, when implemented on the data processor, instructs the data processor to perform the desired method steps. Hence, the claims would be directed to statutory subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 1, it is unclear to the Examiner as to whether a method or device is claimed since the claim purports to be a device but instead merely claims method steps without

corresponding structure to carryout the claimed steps. The claim therefore is improper. For examination purposes, the Examiner has taken the position that a method is claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN M. CORBETT whose telephone number is (571)272-8284. The examiner can normally be reached on M-F 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached on (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. C./
Examiner, Art Unit 2882

/C. G. K./

/Edward J Glick/
Supervisory Patent Examiner, Art Unit 2882